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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/668,686
Filing Date: September 23, 2003
Appellant(s): PEARSON ET AL.

Jeffrey G. Toler
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/29/2006 appealing from the Office action mailed 8/23/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

4,932,050	Davidson et al.	6-1990
6,320,534	Goss	11-2001

Art Unit: 2617

6,389,117	Gross et al.	5-2002
5,603,054	Theimer et al.	2-1997

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-5, 9-11, 13-19, 23-26, 29, 31-33 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson et al. (US-4,932,050 hereafter, Davidson) in view of Goss (US-6,320,534).

Regarding claim 1, Davidson teaches proximity detection for telecommunication features that includes a method of processing a call by receiving location data by an interconnected network (Col. 7 lines 14-35, Fig. 2 [162] and Fig. 3 [172]), the location data derived from a proximity sensor that provides a proximity determination with respect to a subscriber (Col. 7 lines 36-54), receiving a first call at a primary destination address associated with the subscriber, selecting a first address from a list of the plurality of addresses, the selected address identifying a communication device of the subscriber proximate to the proximity sensor. (Col. 8 line 8 through Col. 9 line 68) Davidson differs from the claimed invention by not explicitly reciting the proximity determination with respect to a mobile device of the subscriber and sorting a list of a plurality of addresses identifying communication devices of the subscriber based on the location data.

In an analogous art, Goss teaches a method and system for providing location dependent call forwarding that includes a personal locating unit that monitors the location of the subscriber (Col. 1 line 47 through Col. 3 line 8, Fig. 2 [42a] and Fig. 3

Art Unit: 2617

[42]) and sorting a list of a plurality of addresses identifying communication devices of the subscriber based on the location data for each incoming call. (Col. 5 lines 16-67)

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to implement the invention of Davidson after modifying it to incorporate the personal locating device of Goss. One of ordinary skill in the art would be motivated to do this since it automates where a call is to be routed, instead of having a user constantly update their preference for call routing. (Col. 1 lines 47-58)

Regarding claim 2, Davidson in view of Goss teaches the mobile device is incorporated into the communication device. (Goss Col. 4 lines 60-65)

Regarding claim 3, Davidson in view of Goss teaches placing a second call to the selected address. (Davidson Col. 2 lines 23-33 and Goss Col. 1 lines 47-58)

Regarding claim 4, Davidson in view of Goss teaches a unified messaging service receives the first call and places the second call. (Goss Fig. 5, Fig. 6 and Col. 4 line 66 through Col. 5 line 67)

Regarding claim 5, Davidson in view of Goss teaches receiving an indication that the subscriber has answered the second call. (Davidson Col. 11 lines 21-32)

Regarding claim 9, Davidson in view of Goss teaches determining the subscriber location is within a second proximity zone proximate to a second proximity device and a second address. (Goss Col. 5 lines 16-67)

Regarding claim 10, Davidson in view of Goss teaches that the second proximity zone is a mobile zone not proximate to the proximity sensor, the mobile zone associated with a mobile address. (Goss Col. 5 lines 16-67)

Regarding claim 11, Davidson in view of Goss teaches a unified messaging system receives the location data. (Davidson Col. 7 lines 14-54)

Regarding claim 13, Davidson in view of Goss teaches a method of updating a proximity zone state by receiving location data by an interconnected network (Davidson Col. 7 lines 14-35, Fig. 2 [162] and Fig. 3 [172]), the location data derived from a proximity sensor that provides a proximity determination with respect to a subscriber (Davidson Col. 7 lines 36-54), detecting a change in subscriber location based on the location data (Goss Col. 2 lines 4-29), determining a change from a first proximity zone state to a second proximity zone state based on the subscriber location and updating a data record utilizing the location data, the data record accessible to a call redirection control system, the data record including a proximity zone field, the proximity zone field changed from a first proximity zone state to a second proximity zone state (Goss Col. 2 line 4 through Col. 3 line 8), the data record further including an ordered list of addresses of the subscriber, the ordered list of addresses reordered based on the changed proximity zone field. (Goss Col. 5 lines 16-67 and Col. 6 lines 18-33)

Regarding claim 14, Davidson in view of Goss teaches a first proximity zone is a fixed zone associated with a stationary phone. (Goss Col. 2 lines 63-67)

Regarding claim 15, Davidson in view of Goss teaches a second proximity zone is a mobile zone associated with a mobile phone. (Goss Col. 2 lines 63-67)

Regarding claim 16, Davidson in view of Goss teaches the call redirection control system redirects a call to addresses of the ordered list of addresses of the subscriber

Art Unit: 2617

until the subscriber answers the call or an end of the ordered list of addresses is reached. (Goss Col. 2 lines 58-62 and Col. 5 line 16 through Col. 6 line 33)

Regarding claim 17, Davidson in view of Goss teaches processing a call by receiving location data by an interconnected network (Davidson Col. 7 lines 14-35, Fig. 2 [162] and Fig. 3 [172]), the location data derived from a proximity sensor that provides a proximity determination with respect to a subscriber (Davidson Col. 7 lines 36-54), storing the location data in a data record (Davidson Col. 7 lines 41-44), receiving a first call at a primary destination address associated with the subscriber, playing an announcement, prompting for a caller's name, receiving the caller's name and retrieving the data record to identify a selected address, the selected address identifying a communication device of the subscriber, the communication device located within a proximity zone proximate to the proximity sensor. (Davidson Col. 8 line 8 through Col. 9 line 68)

Regarding claim 18, Davidson in view of Goss teaches placing a second call to a selected address. (Davidson Col. 2 lines 23-33 and Goss Col. 1 lines 47-58)

Davidson in view of Goss teaches the proximity sensor is a small device designed for integration into another device, which obviously could be a charging cradle. (Davidson Col. 3 lines 36-40)

Regarding claim 19, Davidson in view of Goss teaches receiving an indication that the subscriber has answered the second call. (Davidson Col. 11 lines 21-32)

Regarding claim 23, Davidson teaches a proximity sensor configured to determine whether a mobile device is proximate to the proximity sensor, wherein the

Art Unit: 2617

proximity sensor is a charging cradle, the charging cradle configured to provide energy to a battery within the mobile device when the mobile device is positioned in the cradle (Col. 3 lines 36-40 and Col. 5 line 55 through Col. 6 line 19 "off-hook" and "on-hook") proximity detection for telecommunication features that includes a method of processing a call by receiving location data by an interconnected network (Col. 7 lines 14-35, Fig. 2 [162] and Fig. 3 [172]), the location data derived from a proximity sensor that provides a proximity determination with respect to a subscriber (Col. 7 lines 36-54) and an interconnected network access point to a computer network coupled to the circuitry to transmit a call redirection control message in response to the proximity determination. (Fig. 1 [100] and Col. 2 line 8 through Col. 3 line 35) Davidson differs from the claimed invention by not explicitly reciting the proximity determination with respect to a mobile device of the subscriber.

In an analogous art, Goss teaches a method and system for providing location dependent call forwarding that includes a personal locating unit that monitors the location of the subscriber. (Col. 1 line 47 through Col. 3 line 8, Fig. 2 [42a] and Fig. 3 [42]) At the time the invention was made, it would have been obvious to one of ordinary skill in the art to implement the invention of Davidson after modifying it to incorporate the personal locating device of Goss. One of ordinary skill in the art would be motivated to do this since it automates where a call is to be routed, instead of having a user constantly update their preference for call routing. (Col. 1 lines 47-58)

Regarding claim 24, Davidson in view of Goss teaches the mobile device comprises a personal digital assistant. (Goss Col. 4 lines 56-65)

Art Unit: 2617

Regarding claim 25, Davidson in view of Goss teaches the mobile device comprises a mobile phone. (Goss Col. 4 lines 56-65)

Regarding claim 26, Davidson in view of Goss teaches the mobile device is a radio frequency identification tag, a smartcard or a wearable electronics device. (Goss Col. 4 lines 56-65)

Regarding claim 29, Davidson in view of Goss teaches the proximity sensor comprises a radio frequency receiver. (Davidson Col. 3 lines 36-40)

Regarding claims 31-33, Davidson in view of Goss teaches a proximity sensor and discloses a specific example (Davidson Col. 3 lines 36-40), but differs from the claimed invention by not explicitly reciting the proximity sensor communicates by using a wireless communication protocol such as *Bluetooth* or an IEEE 802.11 protocol.

However, it would be obvious to one of ordinary skill in the art to be motivated to use a wireless proximity sensor since the sensor could be located in an unobtrusive location without having to deal with running a wire to the remote location.

Regarding claim 42, Davidson in view of Goss teaches placing a second call to the selected address, selecting a second address from the sorted list of the plurality of addresses, the selected second address identifying a second communication device of the subscriber and placing a third call to the selected second address. (Davidson Col. 2 lines 23-33, Goss Col. 1 lines 47-58 and Col. 5 line 16 through Col. 6 line 34)

Claims 6-8 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson in view of Goss as applied to claim 5 above, and further in view of Gross et al. (US-6,389,117 hereafter, Gross).

Art Unit: 2617

Regarding claim 6, Davidson in view of Goss teaches receiving an indication that the subscriber has answered a call (Davidson Col. 11 lines 21-32), but differs from the claimed invention by not explicitly reciting playing an announcement to the subscriber including the caller's name or giving the option to send the call to voice mail.

In an analogous art, Gross teaches a system and method of using a single telephone number to access multiple communication services that includes prompting for a caller's name, receiving the caller's name, playing an announcement to the subscriber including the caller's name, answering the phone call or giving the option to send the call to voice mail. (Col. 16 lines 16-37 and Fig. 8) At the time the invention was made, it would have been obvious to one of ordinary skill in the art to implement the proximity detection and call forwarding system of Davidson in view of Goss after modifying it to incorporate a user menu for call action/inaction of Gross. One of ordinary skill in the art would have been motivated to do this since even if a subscriber is using location based routing, a subscriber might find it temporarily inconvenient to always answer the phone.

Regarding claim 7, Davidson in view of Goss and Gross teaches routing a call to voice mail. (Gross Fig. 8)

Regarding claim 8, Davidson in view of Goss and Gross teaches connecting the first call and the second call to allow the caller to engage in a conversation with the subscriber. (Col. 16 lines 16-37)

Regarding claim 20, the limitations of claim 20 are rejected as being the same reason set forth above in claim 6.

Regarding claim 21, the limitations of claim 21 are rejected as being the same reason set forth above in claim 7.

Regarding claim 22, the limitations of claim 22 are rejected as being the same reason set forth above in claim 8.

Claims 27, 30 and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson in view of Goss as applied to claim 23 above, and further in view of Theimer et al. (US-5,603,054 hereafter, Theimer).

Regarding claim 27, Davidson in view of Goss teaches the computational circuitry for transmitting call redirection (Davidson Fig. 1 [100], Fig. 3 [172], Col. 2 line 8 through Col. 3 line 35 and Goss Col. 1 line 47 through Col. 3 line 8, Fig. 1 [12]), but differ from the claimed invention by not explicitly reciting that the computational circuitry is a personal computer.

In an analogous art, Theimer teaches a method of enforcing interaction policies between users and machines based on location that includes call forwarding based on location (Col. 2 lines 20-25 and line 60 through Col. 3 line 2), wherein a personal computer can be used as the computational circuitry. (Col. 8 lines 53-65) At the time the invention was made, it would have been obvious to one of ordinary skill in the art to implement the invention of Davidson in view of Goss after modifying it to incorporate a personal computer for controlling the call forwarding preferences of Theimer. One of ordinary skill in the art would have been motivated to do this since it doesn't require the

Art Unit: 2617

cost of purchasing and maintaining a large server containing a server with every user's preferences.

Regarding claim 30, Davidson in view of Goss and Theimer teaches the proximity sensor comprises a radio frequency identification receiver. (Theimer Col. 2 lines 20-25)

Regarding claim 34, Davidson in view of Goss and Theimer teaches the network access point is a broadband modem. (Theimer Col. 5 line 50 through Col. 6 line 21)

Regarding claim 35, Davidson in view of Goss and Theimer teaches the network access point is a router or data network switch. (Theimer Col. 5 line 50 through Col. 6 line 21)

Regarding claim 36, Davidson in view of Goss and Theimer teaches a call redirection control message is a Remote Procedure Calls, InterProcess Communications message, Simple Object Access Protocol message, email message, HyperText Transfer Protocol message or file transfer protocol message. (Theimer Col. 7 lines 46-54)

(10) Response to Argument

With respect to the Appellant's argument pertaining to claim 1 that *sorting a list of a plurality of addresses identifying communication devices of the subscriber based on the location data* (Page 5 Para 1) is not disclosed by Goss, the Examiner disagrees.

Goss is directed to a location based personal telephone routing system that includes searching a list of available phones based on a threshold value, each time an

incoming call is made in order to forward the call to the phone that meets the threshold compared to the location of the subscriber. (Abstract, Fig. 5, Fig. 6 and Col. 4 line 66 through Col. 5 line 67) When a result is returned and the call is forwarded to the closest phone to the user, it is evident that a sorting has occurred because the locations of the subscriber-specified telephones with the specified proximity to the received location are distinguished from the telephones not meeting the proximity threshold. Therefore, Goss teaches sorting a list of a plurality of addresses identifying communication devices of the subscribed based on location data.

With respect to the Appellant's argument pertaining to *when two or more telephones are within the specified proximity, the method of Goss does not select or sort the telephones based on location* (Page 5 Para 2), the Examiner disagrees.

Goss's invention first and foremost is directed to routing telephone calls to a telephone that is closest to the subscriber and teaches an optional and additional feature that allows the user or system to choose how to proceed. Goss teaches an additional feature referred to as a "priority scheme" which can be used to ring the home phone instead of a cellular phone when a subscriber is inside their house or apartment. (Col. 5 lines 16-53 and Fig. 6) The Examiner views this option as a cost savings feature that can be implemented by the subscriber in order to save the more expensive mobile minutes in circumstances when a home phone is also located within the sorted threshold. Nevertheless, as the Appellant admits in the cited argument, the "priority

Art Unit: 2617

scheme" of Goss does in fact "select" one of the telephones that meet the sorted proximity threshold. Therefore, Goss meets the limitation as claimed.

With respect to the Appellant's argument pertaining to claim 1 that *selecting a first address from a list of a plurality of addresses is not a correct recitation of claim 1* (Page 5 Para 3), the Examiner disagrees.

The Examiner is relying upon Davidson to select an address from a list. (Col. 8 line 8 through Col. 9 line 68) The Examiner is relying upon Goss to sort the list of addresses. (Col. 5 lines 16-67) Further, the Appellant cites an example of a list that is sorted from closest to most distant based on location data (Page 5 Para 3) to strengthen the Appellant's argument. However, the flaw in that argument is the list in the example is sorted from closest to most distant based on location data, which the Examiner views as ordering a list; however Claim 1 recites "sorting a list based on location data," not ordering a list from closest to most distant. Therefore, when combining Davidson in view of Goss, Goss teaches sorting a list of addresses based on a threshold and Davidson teaches selecting the first address from the list, which when applied to Goss would be a sorted list.

With respect to the Appellant's argument pertaining to claim 13 that *data record further including an ordered list of addresses of the subscriber, the ordered list of addresses reordered based on the changed proximity zone field* (Page 6 Para 2-3) is not taught by Davidson or Goss, the Examiner disagrees.

Goss's invention is directed towards determining the telephone closest to the subscriber and then routing the incoming call to the determined telephone. (Abstract) Goss teaches maintaining proper position information, especially with respect to mobile telephones (Col. 6 lines 18-19) and specifically differentiates in the database between mobile telephones and non-mobile telephones (Col. 6 lines 28-33) so that the system knows which phones require more frequent location update queries. (Col. 6 lines 18-33) Therefore, it is the Examiner's opinion that Goss is dynamically ordering and reordering, by distance, the locations of mobile phones and non-mobile phones in comparison to the location of the subscriber in order to dynamically route an incoming call to the closest telephone to the subscriber.

With respect to the Appellant's argument pertaining to claim 23 that *wherein the proximity sensor is a charging cradle, the charging cradle configured to provide energy to a battery within the mobile device when the mobile device is positioned in the cradle* (Page 7 Para 2-4) is not taught by Davidson, the Examiner disagrees.

Davidson teaches a proximity sensor (Col. 3 lines 22-40) that is designed for being built into other equipment. (Col. 3 lines 36-40) In the scope of Davidson's invention, the proximity sensor could obviously be integrated into the base of a rotary phone. Although the technology in Davidson is older (rotary phone Fig. 1 [160]) when compared to a mobile phone, the concepts are similar. The rotary phone has a base with an on-hook and off-hook sender. When the phone is on-hook, energy is being stored (charging) and when the phone is off-hook (mobile outside of charger), energy is

being used in the handset (mobile phone running off the battery). Therefore, Davidson teaches a proximity sensor that is designed for integration into other equipment including a rotary phone base or a charging cradle.

With respect to the Appellant's argument pertaining to *the combination of Davidson in view of Goss as being improper because the combination would render the references unsatisfactory for their intended purposes* (Page 8 Para 2), the Examiner disagrees.

Davidson teaches a system that detects whether a person is within a certain proximity of a phone or forwards a call to a location where there is a person to answer the incoming call. (Fig. 6, 7 & 8) Goss teaches a system that keeps track of the location of a subscriber, sorts through a database of proximately located phones when compared to the location of the subscriber and forwards incoming calls to the phone closest to the subscriber. (Abstract, Col. 4 line 66 through Col. 6 line 33) Since Davidson and Goss are both directed to the same field of endeavor, it would have been obvious to one of ordinary skill in the art to combine the inventions in order to have an automated system for forwarding incoming calls to subscribers based on the subscriber's proximity to a phone.

With respect to the Appellant's argument pertaining to *the asserted combination is also improper because it is improper to combine references where the references teach away from their combination* (Page 8 Para 3), the Examiner disagrees.

Davidson does not teaches that you can not use a system that relies on identifying individual people, just that it is prohibitive with the technology available in 1989. In Goss, filed in 1999, 10 years of technological advancements between the patents have made Davidson's prohibitive technology not only affordable, but also widely available.

With respect to the Appellant's argument pertaining to *the system of Davidson only functions within an ISDN as found in particular buildings and such systems are undesirable by Goss* (Pages 8-9), the Examiner disagrees.

In the background of the disclosure, applicants are encouraged to explain the current state of inventions related to the problem at hand. Goss explicitly stated the limitations found in the prior art and was stating reasons as to why and how Goss's invention would solve the problem, while differentiating itself from the prior art. (Col. 1 line 6 through Col. 3 line 8) Goss was not teaching away by disclosing the current state of prior art with respect to call forwarding systems.

With respect to the Appellant's argument pertaining to *Goss teaching away from the system of Davidson by following a user specified call forwarding list* (Page 9 Para 2), the Examiner disagrees.

The Examiner's realizes Davidson discloses a static order for forwarding calls. In the combination of Davidson in view of Goss, the Examiner is improving upon Davidson's system by making the static order into an automatically sorted list based

Art Unit: 2617

upon the subscriber's location. The inventions of Davidson and Goss are in the same field of endeavor and do not teach away from each other.

With respect to the Appellant's argument pertaining to claims 4 & 11 that *neither Goss nor Davidson disclose or suggest a unified messaging system receiving a first call and placing a second call or receives the location data* (Page 9 Para 3), the Examiner disagrees.

Goss teaches a unified messaging service receives a first call (at a reach number Fig. 5 [80]) and places a second call (Fig. 6 [96 & 98]). Further, Goss teaches the unified messaging service receives the location data. (Fig. 5 [82 & 84] and Col. 4 line 66 through Col. 5 line 67)

With respect to the Appellant's argument pertaining to claims 6-8 and 20-22 as being rejected by Davidson in view of Goss and Gross, since no arguments were raised, the original rejection stands in view of the further reasons stated above.

With respect to the Appellant's argument pertaining to claims 27, 30 and 34-36 as being rejected by Davidson in view of Goss and Theimer, since no arguments were raised, the original rejection stands in view of the further reasons stated above.

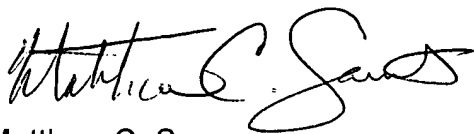
Art Unit: 2617

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,



Matthew C. Sams
February 26, 2007


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